

Office of the Secretary, Interior

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valid claim is unreasonable, and if so, to reduce the claim to a reasonable amount or disallow the claim in its entirety. If a claim is reduced, the judge will order payment only of the reduced amount.

§ 30.146 What property is subject to claims?

Except as prohibited by law, all intangible trust personalty of a decedent on hand or accrued at the date of death may be used for the payment of claims, including:

- (a) IIM account balances;
- (b) Bonds;
- (c) Unpaid judgments; and
- (d) Accounts receivable.

§ 30.147 What happens if there is not enough trust personalty to pay all the claims?

If, as of the date of death, there was not enough trust personalty to pay all allowed claims, the judge may order them paid on a pro rata basis. The unpaid balance of any claims will not be enforceable against the estate after the estate is closed.

§ 30.148 Will interest or penalties charged after the date of death be paid?

Interest or penalties charged against claims after the date of death will not be paid.

Subpart F—Consolidation and Settlement Agreements

§ 30.150 What action will the judge take if the interested parties agree to settle matters among themselves?

(a) A judge may approve a settlement agreement among interested parties resolving any issue in the probate proceeding if the judge finds that:

- (1) All parties to the agreement are advised as to all material facts;
- (2) All parties to the agreement understand the effect of the agreement on their rights; and
- (3) It is in the best interest of the parties to settle.

(b) In considering the proposed settlement agreement, the judge may consider evidence of the respective values of specific items of property and all encumbrances.

(c) If the judge approves the settlement agreement under paragraph (a) of this section, the judge will issue an order approving the settlement agreement and distributing the estate in accordance with the agreement.

§ 30.151 May the devisees or eligible heirs in a probate proceeding consolidate their interests?

The devisees or eligible heirs may consolidate interests under 25 U.S.C. 2206(e) in trust property already owned by the heirs or under 25 U.S.C. 2206(j)(9) in property from the inventory of the decedent's estate, or both.

(a) A judge may approve a written agreement among devisees or eligible heirs in a probate case to consolidate the interests of a decedent's devisees or eligible heirs.

(1) To accomplish a consolidation, the agreement may include conveyances among decedent's devisees or eligible heirs of:

(i) Interests in trust or restricted land in the decedent's trust inventory; and

(ii) Interests of the devisees or eligible heirs in trust or restricted land which are not part of the decedent's trust inventory.

(2) The parties must offer evidence sufficient to satisfy the judge of the percentage of ownership held and offered by a party.

(3) If the decedent's devisees or eligible heirs enter into an agreement, the parties to the agreement are not required to comply with the Secretary's rules and requirements otherwise applicable to conveyances by deed.

(b) If the judge approves an agreement, the judge will issue an order distributing the estate in accordance with the agreement.

(c) In order to approve an agreement, the judge must find that:

- (1) The agreement to consolidate is voluntary;
- (2) All parties to the agreement know the material facts;
- (3) All parties to the agreement understand the effect of the agreement on their rights; and
- (4) The agreement accomplishes consolidation.

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(d) An interest included in an approved agreement may not be purchased at probate without consent of the owner of the consolidated interest.

§ 30.152 May the parties to an agreement waive valuation of trust property?

The parties to a settlement agreement or a consolidation agreement may waive valuation of trust property otherwise required by regulation or the Secretary's rules and requirements. If the parties waive valuation, the waiver must be included in the written agreement.

§ 30.153 Is an order approving an agreement considered a partition or sale transaction?

An order issued by a judge approving a consolidation or settlement agreement will not be considered a partition or sale transaction under 25 CFR part 152.

Subpart G—Purchase at Probate

§ 30.160 What may be purchased at probate?

An eligible purchaser may purchase, during the probate of a trust or restricted estate, all or part of the estate of a person who died on or after June 20, 2006.

(a) Any interest in trust or restricted property, including a life estate that is part of the estate (i.e., a life estate owned by the decedent but measured by the life of someone who survives the decedent), may be purchased at probate with the following exceptions:

(1) If an interest is included in an approved consolidation agreement, that interest may not be purchased at probate without consent of the owner of the consolidated interest; and

(2) An interest that a devisee will receive under a valid will cannot be purchased without the consent of the devisee.

(b) A purchase option must be exercised before a decision or order is entered and must be included as part of the order in the estate.

§ 30.161 Who may purchase at probate?

An eligible purchaser is any of the following:

43 CFR Subtitle A (10–1–09 Edition)

(a) Any devisee or eligible heir who is taking an interest in the same parcel of land in the probate proceeding;

(b) Any person who owns an undivided trust or restricted interest in the same parcel of land;

(c) The Indian tribe with jurisdiction over the parcel containing the interest; or

(d) The Secretary on behalf of the tribe.

§ 30.162 Does property purchased at probate remain in trust or restricted status?

Yes. The property interests purchased at probate must remain in trust or restricted status.

§ 30.163 Is consent required for a purchase at probate?

(a) Consent is required for a purchase at probate if both of the following conditions are met:

(1) If the interest in trust or restricted property meets the criteria in § 30.160(a)(1) or (2); and

(2) If the interest an heir will receive by intestate succession in the parcel subject to the probate proceeding meets either of the following criteria:

(i) It is 5 percent or more of the entire undivided ownership interest in the parcel; or

(ii) It is less than 5 percent of the entire undivided ownership interest in the parcel and the heir was residing on the parcel on the date of the decedent's death.

(b) A devisee's consent is always required for a purchase at probate.

§ 30.164 What must I do to purchase at probate?

Any eligible purchaser must submit a written request to OHA to purchase at probate before the decision or order is issued.

§ 30.165 Who will OHA notify of a request to purchase at probate?

OHA will provide notice of a request to purchase at probate as shown in the following table:

OHA will provide notice to . . .	By . . .
(a) The heirs or devisees and the Indian tribe with jurisdiction over the interest.	First class mail.